

United States of America, :
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 Plaintiff, :
 :
 v. : Case No. 2:09-cr-291(1)
 :
 Steven G. Loney, : JUDGE SMITH
 :
 Defendant. :

Following the hearing, "if the judicial officer determines that no such conditions exists, such judicial

officer shall order the detention of the person before trial." Id. If detention is based upon a finding that no condition or combination of conditions will reasonably assure the safety of any other person in the community, such a finding must be supported by clear and convincing evidence. Proof that the person sought to be detained is a serious risk of flight must be by a preponderance of the evidence.

18 U.S.C. §3142(g) requires the judicial officer to consider available information concerning (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug; (2) the weight of the evidence against the person; (3) the history and characteristics of the person, and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. See, e.g., United States v. Arvanitis, 667 F. Supp. 693 (N.D.Ill. 1987). Detention may be ordered based upon a finding that the defendant is likely to continue to engage in criminal activity which poses a threat either to the community or to the safety of particular persons, and such circumstances are not limited to proof that the defendant poses a serious risk either to obstruct justice or to intimidate or injure a prospective witness or juror. See, e.g., United States v. Daniels, 772 F.2d 382 (7th Cir. 1985); United States v. Yeaple, 605 F.Supp. 85 (M.D.Pa. 1985).

The government presented evidence that Mr. Loney was arrested on December 17, 2009 at his residence. A loaded firearm, scales, and marijuana packaged for distribution were all found in plain view when Mr. Loney was arrested. A subsequent search of his home turned up more marijuana hidden behind a television set in the basement.

This Court's records show that Mr. Loney was convicted in

2002 of being a convicted felon in possession of a firearm. He served a prison term followed by supervised release. His supervised release was revoked for non-reporting.

The Pretrial Services report shows that Mr. Loney was convicted of a felony weapons charge in state court in 1997. He also received a jail term for that offense. After being released on parole, his parole was revoked on two separate occasions. It appears that he was on state parole when he committed his prior federal firearms offense.

According to that same report, Mr. Loney was convicted of a weapons charge in Belmont County in 2007. In 2009, he was charged with two counts of felony drug possession, with firearms specifications, in Franklin County. Those cases are awaiting trial. According to the agent who testified at the detention hearing, the state charges arose from a search that took place in January, 2009, at the same residence where Mr. Loney was recently arrested. Mr. Loney had a firearm on his person at the time, which led to the federal felon-in-possession charge, and there was another weapon plus narcotics in his home, which led to the state charges. Finally, Mr. Loney has no employment history to speak of and has some history of substance abuse. He does have ties to this community and could live with his mother on electronic monitoring if released.

To be very direct about it, Mr. Loney appears to the Court to be an individual who seems to have a firearm on him or within his reach every time he comes into contact with law enforcement. His prior felony convictions do not seem to have deterred him from having a gun even though he also has been convicted once already of the illegal possession of a firearm by a convicted felon. He seems to have disregarded prior conditions of parole and supervised release, and appears to have continued to deal in narcotics and possess a weapon even though he is going to trial

in less than a month on drug and weapons charges. In short, the Court has absolutely no reason to believe that any of this behavior would change if he were released on terms and conditions, no matter what those terms and conditions might be. The United States therefore met its burden of proof, and the Court detained Mr. Loney.

The defendant is advised of his right to seek review of this detention order pursuant to 18 U.S.C. §3145(b).

/s/ Terence P. Kemp
United States Magistrate Judge